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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,662	08/29/2003	Randy B. Reynolds	8324	9325

7590 11/23/2004

Mr. Lynn G. Foster  
602 E. 300 S.  
Salt Lake City, UT 84102

EXAMINER

SILBERMANN, JOANNE

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 11/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/651,662

Applicant(s)

REYNOLDS, RANDY B.

Examiner

Joanne Silbermann

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*WJ*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 4-8, 13, 14 and 16-19 is/are pending in the application.
- 4a) Of the above claim(s) 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-8, 13, 14 and 16-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I in the reply filed on August 19, 2004 is acknowledged. The traversal is on the ground(s) that the examiner has not shown proof of the two categories of claims being non-obvious with respect to each other. This is not found persuasive because MPEP 806.05(c) does not require a showing of non-obviousness. Two way distinctness, as required by this paragraph, has been shown.

The requirement is still deemed proper and is therefore made FINAL.

2. Claim 19 stands withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on August 19, 2004.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4, 5 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kornelson, US #4,924,363 in view of Reynolds, US #5,111,606.

5. Kornelson teaches a display assembly including a display segment having illumination 80 (Figure 2) and self-contained power source 24 disposed in a housing behind the molding and under the shelf (Figure 1).

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6. Kornelson does not teach a pivotable, cantilevered display, however, such displays are well known in the art, as shown by Reynolds. Reynolds teaches a cantilevered display including pivotal mount 12 that returns the display to a perpendicular position when disturbed (column 4 lines 1-10). It would have been obvious to a person having ordinary skill in the art to utilize such a cantilevered sign with the display of Kornelson so as to provide a display that attracts more attention by sticking out into the aisle, as is taught by Reynolds.

7. Regarding claims 16 and 18, the method steps described would have been obvious to one of ordinary skill in the art given the structure of Kornelson and Reynolds, as described above.

8. Claims 6-8, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reynolds in view of Kornelson and Brinkman, US #5,899,011.

9. Reynolds, as described above, teaches a cantilevered display. It would have been obvious to one of ordinary skill to utilize a power source mounted below the shelf, as described above in Kornelson, to provide a self contained power source that may be mounted out of the way, under the shelf. Reynolds and Kornelson do not teach the mounting portion as being a clamp, contacting front and back sides of the molding strip, however, this type of mounting is well known in the art, as shown by Brinkman. Brinkman teaches a display mounted to a molding strip by clamping portions contacting the front and back of the strip, as in Figure 5. It would have been obvious to provide such a mount for the display of Reynolds as modified by Kornelson as an equivalent


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alternative mounting means, and also to provide a mount that does not require additional hardware (such a magnets) or holes in the shelf.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Silbermann whose telephone number is 703-308-2091. The examiner can normally be reached on M-F 5:30 - 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached at 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Joanne Silbermann  
Primary Examiner  
Art Unit 3611

JS